

In the Matter Of:

US DOMINION vs

SIDNEY POWELL

NICK IKONOMAKIS

October 04, 2024



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
CIVIL ACTION NO. 1:21-CV-00040 (CJN)

US DOMINION, INC., et al.,

Plaintiffs,

vs.

SIDNEY POWELL, et al.,

Defendants.

CIVIL ACTION NO. 1:21-CV-00445 (CJN)

US DOMINION, INC., et al.,

Plaintiffs/Counter-Defendants,

vs.

MY PILLOW, INC., et al.,

Defendants/Counter-Plaintiffs, and

Third-Party Plaintiffs,

vs.

SMARTMATIC USA CORP., et al.,

Third-Party Defendants.

(Caption continued on the next page.)

<p style="text-align: right;">Page 194</p> <p>1 (Presented Exhibit 2437.)</p> <p>2 THE WITNESS: I put this away?</p> <p>3 MS. VITALE: Yes.</p> <p>4 BY MS. VITALE:</p> <p>5 Q And this is the same examiner we were</p> <p>6 looking at but not the October/November examination.</p> <p>7 Do you see that, Brian Mechler?</p> <p>8 A I do.</p> <p>9 MR. SARGENT: Just so the record is</p> <p>10 clear, parts of the examiner report you were just</p> <p>11 reading were from a different examiner, Sneeringer,</p> <p>12 but I don't think it really matters.</p> <p>13 MS. VITALE: But we did look at Brian</p> <p>14 Mechler's report earlier.</p> <p>15 MR. SARGENT: True.</p> <p>16 MS. VITALE: For the February 2019,</p> <p>17 correct?</p> <p>18 MR. SARGENT: Yep.</p> <p>19 BY MS. VITALE:</p> <p>20 Q In 188, it's the same examiner?</p> <p>21 A But I think the number you're referring to,</p> <p>22 like Number 5 that talked about the order VVPAT,</p>	<p style="text-align: right;">Page 196</p> <p>1 that EED is overly complex and fragile. Many</p> <p>2 troubling questions come to mind. If Dominion</p> <p>3 personnel, theoretically the most expert users of</p> <p>4 this software, can create an election definition</p> <p>5 with so many glaring errors, how error prone will</p> <p>6 the system be for jurisdictions that opt to create</p> <p>7 their own election definitions? What level of</p> <p>8 service will jurisdictions receive if they outsource</p> <p>9 the creation of election definitions to Dominion?</p> <p>10 One would assume that a certification examination</p> <p>11 sets the benchmark for the quality of service</p> <p>12 vendors provide to jurisdictions.</p> <p>13 Did I read that correctly?</p> <p>14 A Yes.</p> <p>15 Q And are you aware that there was an issue in</p> <p>16 Antrim County in the 2020 election regarding</p> <p>17 election definition files?</p> <p>18 A The error in Antrim County was not with the</p> <p>19 election definition files.</p> <p>20 Q So you're not aware that there was a ballot</p> <p>21 change and then a change to the election definition</p> <p>22 files, and that didn't read correctly with the EMS</p>
<p style="text-align: right;">Page 195</p> <p>1 that was from a different examiner.</p> <p>2 MS. VITALE: Understood. Yeah.</p> <p>3 They're not connected. I'm not trying to connect</p> <p>4 them. We're all in alignment.</p> <p>5 BY MS. VITALE:</p> <p>6 Q But we did look at Brian Mechler's report</p> <p>7 from the February --</p> <p>8 A I think you brought me to the first page of</p> <p>9 his report.</p> <p>10 Q Yes.</p> <p>11 A But I don't think we looked at the rest of</p> <p>12 his report.</p> <p>13 Q And then we are now looking at</p> <p>14 Brian Mechler's November 2019 report, correct?</p> <p>15 A Correct.</p> <p>16 Q So if we go to PDF page 5, which would end</p> <p>17 in 37492, and this is Section 2.1.2, Election Event</p> <p>18 Designer (EED).</p> <p>19 Do you see that?</p> <p>20 A Yes.</p> <p>21 Q And Brian Mechler's observation is as</p> <p>22 follows: Similar to the install process, it appears</p>	<p style="text-align: right;">Page 197</p> <p>1 RTR software? You're not aware of that?</p> <p>2 A Procedures weren't followed to upgrade the</p> <p>3 machines to the changed election definition files,</p> <p>4 and that's one of the components that led to the</p> <p>5 errors that happened.</p> <p>6 Q And were there --</p> <p>7 A There was no issues with the election</p> <p>8 definition files.</p> <p>9 Q And were there multiple components that led</p> <p>10 to the issues that occurred in Antrim County?</p> <p>11 A It was multiple errors were made, correct.</p> <p>12 Q And what investigation did you do to</p> <p>13 understand what happened in Antrim County?</p> <p>14 A Me specifically?</p> <p>15 Q Yes.</p> <p>16 A I mean, I talked to the programmer who</p> <p>17 configured the election definition for them. I got</p> <p>18 information about what was done or not done, more</p> <p>19 importantly, by the customer in preparing the</p> <p>20 system. And I also reviewed Halderman's report on</p> <p>21 his analysis of what happened.</p> <p>22 Q And do you recall if it was Halderman's</p>

<p style="text-align: right;">Page 198</p> <p>1 first analysis or second analysis that you read?</p> <p>2 A I wasn't sure he made two, so I -- it was</p> <p>3 one analysis. I don't know which one.</p> <p>4 Q And when you said you spoke to the</p> <p>5 programmer who actually created the election</p> <p>6 definition files in the package, who was that?</p> <p>7 A Someone with the dealer in the state</p> <p>8 election source. I'm not sure. I don't recall who</p> <p>9 it was.</p> <p>10 Q Would it have been Mike Kelava?</p> <p>11 A It may have. I'm not sure.</p> <p>12 Q And when did you speak to Mike Kelava</p> <p>13 potentially?</p> <p>14 A Soon after the issue came up.</p> <p>15 Q So in 2020?</p> <p>16 A Yes.</p> <p>17 Q And I guess why were you -- did election</p> <p>18 source pull you in, or did you reach out to them?</p> <p>19 How did that work?</p> <p>20 A I don't recall the sequence of steps. It</p> <p>21 was brought to my attention. I got in contact with</p> <p>22 election source to try to understand more of what</p>	<p style="text-align: right;">Page 200</p> <p>1 A From the information I gathered afterwards,</p> <p>2 the report by Halderman helped me understand because</p> <p>3 he had direct access to the projects, the system. I</p> <p>4 think the state hired him to examine it, and I read</p> <p>5 his report, and it gave me a lot of information.</p> <p>6 (Presented Exhibit 1366.)</p> <p>7 BY MS. VITALE:</p> <p>8 Q I'm handing you what's been marked as 1366.</p> <p>9 And this is actually prior to the election.</p> <p>10 It's dated October 6, 2020.</p> <p>11 Do you see that?</p> <p>12 A Yes.</p> <p>13 Q And the email that I'm drawing your</p> <p>14 attention to is the middle one, the second one from</p> <p>15 Mike Kelava @electionsource.com?</p> <p>16 A Yes, I see it.</p> <p>17 Q And he says, We are going to have to roll</p> <p>18 the election back and add in new contest with new</p> <p>19 candidates. Unfortunately, this has caused issues</p> <p>20 in the past where the back end of the database</p> <p>21 changes some candidate numberings around. We have</p> <p>22 no control over how the system numbers candidates</p>
<p style="text-align: right;">Page 199</p> <p>1 happened. That's when I talked to him.</p> <p>2 I don't recall what he had told me at the</p> <p>3 time either in terms of how much was known about</p> <p>4 what happened.</p> <p>5 Q So you're not sure -- did you speak to him a</p> <p>6 few days after the election, or was it after they</p> <p>7 had resolved the issue?</p> <p>8 A That's a good question. I don't know, yeah.</p> <p>9 Q But sometime in November 2020?</p> <p>10 A Yeah, yeah, soon after. I'm not sure if it</p> <p>11 was after -- well, you say resolved the issue.</p> <p>12 The issue resolved -- it was the next day</p> <p>13 when they rescanned the ballots and put the results</p> <p>14 in, so my guess is it was after they had resolved</p> <p>15 the issue.</p> <p>16 Q So he knew -- he had diagnosed what the root</p> <p>17 cause was or root causes?</p> <p>18 A No. That's what I'm saying, I don't recall</p> <p>19 at the time when I talked to him what the ultimate</p> <p>20 root cause was.</p> <p>21 Q So how did you determine what the ultimate</p> <p>22 root cause was?</p>	<p style="text-align: right;">Page 201</p> <p>1 from the back end of things. This means the media</p> <p>2 should all be re-created to avoid any issues on</p> <p>3 election day.</p> <p>4 Did I read that correctly?</p> <p>5 A Correct, yeah.</p> <p>6 Q And when you were speaking to Mike Kelava,</p> <p>7 did he mention that this issue had occurred in</p> <p>8 Isabella County prior to the November 2020 election?</p> <p>9 A I don't recall hearing about</p> <p>10 Isabella County.</p> <p>11 Q Had you heard at all about anywhere else</p> <p>12 that this had happened before Antrim County?</p> <p>13 A At that time, no, no.</p> <p>14 Q What about now?</p> <p>15 A I guess this would be client privilege.</p> <p>16 MR. SARGENT: Yeah, you don't need to</p> <p>17 testify about things that we discussed.</p> <p>18 I'll just say for the record that there</p> <p>19 was a recent deposition of a clerk in another county</p> <p>20 in Michigan that had a similar problem. But you</p> <p>21 shouldn't testify about anything you and I discussed</p> <p>22 about that.</p>

Page 286

1 A Yeah, emails, texts, yes.

2 Q Do you know if any of the phones that you

3 texted from were set to delete messages?

4 A Delete text messages? No.

5 Q You don't know or they weren't?

6 A No, no.

7 So my phone was not set to delete text

8 messages.

9 Q You testified earlier about a professor

10 named Alex Halderman.

11 Do you think it would be helpful to have

12 Dr. Halderman or someone with similar credentials

13 inspect Dominion's machines again?

14 A Helpful in what way?

15 Q Well, you said it was helpful. You used

16 that term, right, earlier today, that the report

17 that you read that Dr. Halderman prepared, it was

18 either one or two reports, and that it was helpful,

19 right, to Dominion?

20 A It was helpful for me understanding what

21 happened in Antrim County because he had direct

22 access to the system that the state had asked him to

Page 287

1 investigate.

2 And his report provided me additional

3 information that I didn't know. That's what was

4 helpful about it.

5 Q And you think it would be helpful if

6 machines used in other counties in the United States

7 owned by Dominion, Dominion machines, were inspected

8 by Dr. Halderman or someone with similar

9 credentials?

10 A Our machines -- so our machines are

11 inspected every time we take it through

12 certification. So there are experts, technical

13 experts that review our system every time we take it

14 through federal and state certification. I believe

15 that happens.

16 So if you're asking me if it's helpful,

17 sure, it's helpful if an accredited test lab with

18 their experts review our system.

19 Q Did Dr. Halderman's report provide you with

20 information that was additional to what you learned

21 through the certification processes?

22 A Alex Halderman's report provided me

Page 288

1 information about what happened in Antrim County

2 that wasn't detailed information that I didn't

3 understand completely until he had investigated what

4 happened and provided the report.

5 Q And the machines he inspected had been

6 certified, correct?

7 A Repeat that again.

8 Q The machines that Dr. Halderman inspected

9 had previously been certified, correct?

10 A Yes.

11 Q So is it fair to say --

12 A Sorry, just to be clear, I am not sure if he

13 had access to the machines. I guess I'm speaking

14 without knowledge. He had access to some data that

15 came from Antrim County. That could have just been

16 exports from the equipment. So I don't want to

17 profess I know exactly what he did.

18 All I can tell you is that his report was

19 fairly thorough in terms of analyzing what the

20 issues were in Antrim County.

21 Q Is it your recollection that Dr. Halderman's

22 report or his details, you know, what he had done

Page 289

1 before he did his analysis or in connection with his

2 analysis?

3 A Can you repeat the question?

4 Q You said you're not sure if he had access to

5 machines; is that correct?

6 A Yeah. I want to make sure I wasn't alluding

7 to he had access to the machines or I know that he

8 had access to information. I don't know what access

9 the state had provided him. It might be in his

10 report.

11 But with that information, he was able to

12 discern what had happened in Antrim County.

13 Q So would you expect that --

14 (Stenographer requested clarification

15 due to audio distortion/malfunction.)

16 MS. CINNAMOND: Sure. I can repeat it.

17 BY MS. CINNAMOND:

18 Q Is it your recollection that what

19 Dr. Halderman accessed in terms of information or

20 machines was listed in his report?

21 A My guess is that it was listed in his

22 report.